

UNITED STATES OF AMERICA,
Plaintiff,
v.
DURO TEXTILES LLC
Defendant.

Civil Action No.

CONSENT DECREE

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WHEREAS, Plaintiff, the United States of America, on behalf of the United States Environmental Protection Agency ("EPA"), has filed contemporaneously with the lodging of this Consent Decree a Complaint in this action ("Complaint") against Defendant, Duro Textiles LLC ("Duro"), alleging that Duro has committed various violations of the Clean Water Act ("CWA"), 33 U.S.C. §§ 1251-1387, and the Clean Air Act ("CAA"), 42 U.S.C. §§ 7401-7671q, and regulations and permits issued thereunder, at Duro's leased textile finishing plants in Fall River, Massachusetts;

WHEREAS, the United States and Duro (together, "the Parties") without the necessity of trial regarding any issue of fact or law, and without any admission of liability by Duro, consent to entry of this Consent Decree;

WHEREAS, the Parties agree, and the Court finds, that settlement of this action without adjudication or admission of facts or law is in the public interest and that entry of this Consent Decree without further litigation is an appropriate resolution of the claims alleged in the Complaint;

THEREFORE, it is adjudged, ordered and decreed as follows:

I. BACKGROUND

1. Duro is a limited liability corporation organized in Delaware.

2. Duro currently leases and operates three textile finishing facilities in the City of Fall River, Massachusetts: the Duro Finishing plant, located at 110 Chace Street; Duro Plant 2 (a/k/a Pioneer Finishing), at One Middle Street; and the Duro Textile Printers ("DTP") plant, at 206 Globe Mills Avenue.

3. Until 2004, Duro also operated two other plants in Fall River: the Bayside Laminating plant, located at 848 Airport Road, and the Stedro (a/k/a Stedro Textile) plant, at 100 Globe Mills Avenue.

4. The Complaint alleges that Duro's operations at the plants failed to comply with CWA requirements by violating Duro's high and low pH limits for industrial wastewater discharges, and by failing to routinely inspect potential sources of storm water contamination. The Complaint further alleges that Duro's operations at the plants failed to comply with CAA requirements by failing to maintain minimum temperatures in an air pollutant-controlling incinerator, and by failing to keep certain records.

II. JURISDICTION AND VENUE

5. The Court has jurisdiction over the subject matter of this action and over the parties to this Consent Decree pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b); Section 113(b) of the CAA, 42 U.S.C. § 7413(b); and 28 U.S.C. §§ 1331, 1345 and 1355.

6. Venue properly lies in this district pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b); Section 113(b) of the CAA, 42 U.S.C. § 7413(b); and 28 U.S.C.

§ 1395.

7. The Complaint states claims upon which relief can be granted against Duro pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and Section 113 of the CAA, 42 U.S.C. § 7413.

8. The United States has notified the Commonwealth of Massachusetts of the commencement of this action, pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and Section 113(b) of the CAA, 42 U.S.C. § 7413(b).

III. APPLICABILITY

9. The provisions of this Consent Decree shall apply to and be binding upon the United States on behalf of the EPA, and upon Duro and its officers, directors, agents, employees acting in their official capacities, successors, and assigns. Duro shall provide written notice and a true copy of this Consent Decree to all persons, firms, and corporations participating with Duro in the performance of this Consent Decree. Duro also shall provide written notice and a true copy of this Consent Decree to all successors in interest at least thirty (30) days prior to any transfer of ownership or other interest in all or part of any of the textile finishing plants Duro leases or any of the plants' operations. Simultaneously with such notice, Duro shall notify, in writing, EPA Region I and the

United States Attorney for the District of Massachusetts, at the addresses specified in Section XII of this Consent Decree, of the prospective succession in interest and that such notice and copy has been given by Duro. In the event of transfer of ownership or other interest in any of the textile finishing plants Duro leases or in any of the plants' operations, Duro shall not be released from the obligations or liability for compliance contained in this Consent Decree regarding the transferred plant(s) or operations unless (a) the new owner specifically assumes, and has the financial and technical ability to assume, the obligations and liability for compliance contained in the Consent Decree regarding the transferred plant(s) or their operations, and the new owner's assumption of obligation and liability is approved by EPA Region 1 before the transfer is completed, or (b) the transferred plant(s) permanently cease all textile finishing operations. In no event shall Duro be released from its obligations to pay civil penalties pursuant to Section V, or stipulated penalties pursuant to Section VIII arising from noncompliance occurring before any plant transfer is completed as provided above.

IV. DEFINITIONS

10. Terms used in this Consent Decree that are defined in the CWA or CAA or in regulations promulgated pursuant to those statutes shall have the meanings assigned to them in those statutes or regulations promulgated thereunder, unless otherwise provided

in this Consent Decree. Whenever the terms set forth below are used in this Consent Decree, the following definitions shall apply:

- (a) "Consent Decree" or "Decree" shall mean this document and all attachments and appendices hereto;
- (b) "Day" shall mean a calendar day, unless otherwise specified;
- (c) "Parties" shall mean the United States on behalf of EPA, and Duro;
- (d) "Provide written notice" shall mean, unless otherwise specified, that information and documents shall be transmitted in accordance with the procedures specified in Section XII;
- (e) "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral; and
- (f) "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

V. CIVIL PENALTY

11. Duro shall pay a civil penalty of \$480,000, plus interest, in accordance with the terms and schedule set out in this Section. Duro shall pay the penalty as follows: not later than thirty (30) days after the entry of this Consent Decree, Duro shall pay \$240,000; not later than ninety (90) days after entry, Duro shall pay \$120,000, plus interest at an annual rate of eight percent (8%) on the \$240,000 balance; and not later than one hundred

eighty (180) days after entry, Duro shall pay \$120,000, plus interest at an annual rate of eight percent (8%) on the \$120,000 balance.

12. Duro shall pay the above-described civil penalty by electronic funds transfer in accordance with the written instructions to be provided by the United States Attorney's Office. The cost of such electronic funds transfer shall be Duro's responsibility. Within three (3) business days of payment, Duro shall provide written notice of payment via facsimile and mail to the United States Attorney for the District of Massachusetts, EPA Region 1, and the Department of Justice, pursuant to Section XII below. The written notice shall contain a statement showing the calculation of any interest included in the payment.

13. If Duro makes a late payment of any amount of the penalty, Duro shall pay interest at an annual rate of eight percent (8%) on the late payment, and shall also be liable for stipulated penalties in accordance with Section VIII below. In addition, the due dates of any remaining scheduled penalty payments under this Consent Decree shall be accelerated to the due date of the missed payment date, and Duro shall pay interest at an annual rate of eight percent (8%) for the total of all the accelerated penalty payments.

14. Duro certifies that it shall not use any payments made pursuant to this Section, and any payments made pursuant to Section VIII, in any way as, or in furtherance of, a tax deduction for Duro, or any of its corporate affiliates, under federal, state or local

law. Duro specifically waives any confidentiality rights it has with respect to such payments on its federal tax returns and return information under 26 U.S.C. § 6103, and on any state or local tax returns, as to the United States for the purpose of ensuring the accuracy of this certification.

VI. COMPLIANCE REQUIREMENTS

15. Except as otherwise provided in Section III above, Duro shall comply at all times at the Duro Finishing plant, Duro Plant 2 (unless this plant permanently ceases all textile finishing operations), and the DTP plant with the CWA and the CAA, and with all regulations and permits issued thereunder, including but not limited to the plants' high and low pH limits for wastewater discharges to Fall River's publicly owned wastewater treatment works; the plants' inspection, monitoring and/or evaluation requirements contained in EPA's Storm Water Multi-Sector Permit; and the Duro Finishing plant's minimum temperature requirements for operating a pollution control incinerator.

VII. REPORTING REQUIREMENTS

16. Duro shall provide quarterly reports for the Duro Finishing plant, Duro Plant 2, and the DTP plant. The quarterly reports shall list every instance where Duro's wastewater pH results were below 5.5 standard units ("S.U.") or above 11.5 S.U., or shall state that no such instances occurred during the reporting period. For every instance of pH excursion listed, the reports shall include the date and duration (in minutes) of the

excursion, the lowest or highest pH values recorded during the excursion, and a brief explanation of the excursion's cause. Duro shall provide the above-required information for each calendar quarter to EPA Region 1 within 10 days after the end of the quarter, that is, by no later than January 10th, April 10th, July 10th or October 10th. Duro shall commence this reporting requirement in January 2007 with data for the last two quarters of 2006 (July through September, and October through December) unless Duro and EPA Region 1 agree in writing to alter the commencement date or the initial reporting requirements. Duro's subsequent reports shall pertain to single quarters as described above.

17. The reporting requirements of this Section do not relieve Duro of any reporting obligations required by any federal, state, or local law, regulation, permit, or other requirement.

18. Any information provided by Duro pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law.

VIII. STIPULATED PENALTIES

19. Except as otherwise provided in this Consent Decree, Duro shall be liable for stipulated penalties as set forth below in this Section.

20. Failure to Pay Civil Penalty: If Duro fails to timely pay any amount of the civil penalty set out in Section V in accordance with the schedule set out in Paragraph 11, Duro shall be liable for the unpaid amount and for any interest on the unpaid amount as provided in Section V, and for stipulated penalties as follows:

<u>Days of Failure to Pay</u>	<u>Penalty Per Day</u>
1 to 30 days	\$ 500
31 days and beyond	\$ 1,000

21. Failure to Comply with pH Limits: If Duro discharges wastewater from the Duro Finishing plant, Duro Plant 2 or the DTP plant to Fall River's publicly owned wastewater treatment works with a high or low pH that violates EPA's National Prohibited Discharge Standards set out at 40 C.F.R. § 403.5, or Fall River's federally-approved pH limits set out in Chapter 74 of the Revised Ordinances of Fall River, Duro shall be liable for stipulated penalties for each violation as follows:

<u>Days of Violation</u>	<u>Penalty Per Violation Per Day</u>
1 to 30 days	\$ 500
31 to 60 days	\$ 1,000
61 days and beyond	\$ 2,000

22. Failure to Provide Required Information: If Duro fails to timely provide any information required pursuant to Section VII above, Duro shall be liable for stipulated penalties as follows:

<u>Days of Failure to Provide Information</u>	<u>Penalty Per Day</u>
1 to 30 days	\$ 250
31 to 60 days	\$ 500
61 days and beyond	\$ 1,000

23. Stipulated penalties arising under this Section shall begin to accrue on the day that the violation of this Consent Decree first occurs, and shall continue to accrue for each day until the day upon which the violation is fully corrected. Separate stipulated penalties shall accrue simultaneously for separate violations of this Consent Decree. Stipulated penalties shall accrue regardless of whether the United States has notified Duro that a violation of this Consent Decree has occurred.

24. Stipulated penalties shall become due and owing, and shall be paid by Duro, not later than thirty (30) days after the United States issues Duro a written demand for them. If any such demanded stipulated penalties are not paid in full when due, Duro shall pay the unpaid penalties and interest thereon. Such interest shall accrue from the date the penalties were due, and shall be calculated in accordance with 28 U.S.C. § 1961.

25. The United States, in an unreviewable exercise of its discretion, may reduce or waive stipulated penalties otherwise due it under this Consent Decree.

26. Stipulated penalty payments of less than fifty thousand dollars (\$50,000) shall be made to the United States by certified check, payable to "Treasurer of the United States of America," and shall be tendered to the United States Attorney for the District of Massachusetts, together with a transmittal letter stating the basis for the penalties, describing the calculation of the penalties (including any calculation of interest), and referencing USAO File Number 2005V00557, DOJ Case Number 90-5-1-1-08584, and

the civil action number of this case. Duro shall send a copy of the check and transmittal letter to EPA Region 1 and the Department of Justice at the addressees specified in Section XII. Stipulated penalty payments of fifty thousand dollars or more shall be made by FedWire Electronic Funds Transfer ("EFT"), made in accordance with current EFT procedures and with written instructions to be provided by the United States Attorney's Office, Financial Litigation Unit, Boston, Massachusetts. The cost of such EFT payment shall be Duro's responsibility. The EFT payment shall reference USAO File Number 2005V00557, DOJ Case Number 90-5-1-1-08584, and the case's civil action number. Duro shall send a copy of the electronic funds transfer authorization form, the electronic funds transfer transaction record, and a transmittal letter describing the basis for the penalties and their calculation (including any calculation of interest), to EPA Region 1 and the Department of Justice at the addresses specified in Section XII.

27. Stipulated penalties shall continue to accrue as provided in Paragraph 23 above during any dispute resolution for stipulated penalties arising under Paragraphs 21 and 22, with interest on accrued penalties payable and calculated at the rate established by the Secretary of the Treasury, pursuant to 28 U.S.C. § 1961, but need not be paid until the following:

- (a) If the dispute is resolved by agreement or by a decision of EPA that is not appealed to the Court, Duro shall pay accrued penalties determined to be owing, together with interest, to the United States within thirty (30) days of the effective date of the agreement or the receipt of EPA's decision;
- (b) If the dispute is appealed to the Court and the United States prevails in whole or in part, Duro shall pay all accrued penalties determined by the Court to be owing, together with interest, within sixty (60) days of receiving the Court's decision or order, except as provided in Subparagraph (c), below;
- (c) If any party appeals the Court's decision, Defendant shall pay all accrued penalties determined to be owing, together with interest, within fifteen (15) days of receiving the final appellate court decision.

28. The stipulated penalty provisions of this Section shall be in addition to all other rights reserved by the United States pursuant to Section XI below. Nothing in this Section shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek other remedies or sanctions available by virtue of any violation by Duro of this Consent Decree or of the statutes, regulations or permits referenced within it.

IX. FORCE MAJEURE

29. Stipulated penalties shall not be due for the number of days of noncompliance with this Consent Decree caused by a Force Majeure event as defined in

this Paragraph, provided that Duro complies with the terms of this Section. "Force Majeure," for purposes of this Consent Decree, is defined as any event arising from causes entirely beyond the control of Duro, its consultants, contractors and subcontractors, that causes or may cause noncompliance with the requirements of this Consent Decree subject to stipulated penalties despite the best efforts of Duro, its consultants, contractors, and subcontractors, to avoid the delay. "Best efforts" include using best efforts to anticipate any potential force majeure event and to address the effects of any such event (a) as it is occurring; and (b) after it has occurred, such that the noncompliance is minimized to the greatest extent possible. Force majeure does not include Duro's financial inability to comply with the requirements of this Consent Decree.

30. If any event occurs which causes or may cause noncompliance with any obligation or requirement of this Consent Decree subject to stipulated penalties, whether or not caused by a Force Majeure event, Duro shall provide written notice to EPA as soon as possible, but not later than seven (7) days after the time Duro first knew of, or by the exercise of due diligence, should have know of, a claimed force majeure event. The notice shall describe the noncompliance or expected noncompliance, including its causes and expected duration; describe the measures taken and to be taken by Duro to prevent or minimize the noncompliance or expected noncompliance; provide a schedule for carrying

out those actions; and state Duro's rationale for attributing any noncompliance or expected noncompliance to a force majeure event. Failure to provide timely and complete notice in accordance with this Paragraph shall preclude Duro from asserting any claim of force majeure with respect to the event in question.

31. If the United States agrees that noncompliance or potential noncompliance with an obligation or requirement of this Consent Decree is attributable to force majeure, the parties may agree in writing to extend the time for Duro to comply with the obligation or requirement, not to exceed the amount of time lost due to the actual unavoidable delay resulting from such circumstances. Stipulated penalties shall not accrue with respect to such obligation during the extension provided by the United States for performance. An extension of time to perform the obligation affected by a force majeure event shall not, by itself, extend the time to perform any other obligation under this Consent Decree.

32. If the United States does not agree that a force majeure event has occurred or does not agree to the extension of time sought by Duro, the United States' position shall be binding, unless Duro invokes dispute resolution under Section X below. In any such dispute, Duro shall bear the burden of proving, by a preponderance of the evidence, that each claimed force majeure event is a force majeure event as defined by this Section; that Duro provided the written notice required by Paragraph 30; that the force majeure

event caused any noncompliance Duro claims was attributable to that event; and that Duro exercised its best efforts to prevent or minimize any noncompliance caused by the event.

X. DISPUTE RESOLUTION

33. Unless otherwise provided in this Consent Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Consent Decree. However, such procedures shall not apply to actions by the United States to enforce obligations of Duro that have not been disputed in accordance with this Section.

34. Informal Dispute Resolution: Any dispute subject to dispute resolution under this Consent Decree shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when Duro provides written notice to EPA describing the nature of the dispute and requesting informal negotiations to resolve it. The period of informal negotiations shall not exceed twenty (20) days beyond the date that EPA receives Duro's written notice, and in no event shall extend more than thirty (30) days beyond the date on which the dispute arose, unless EPA and Duro agree in writing to a longer period. If the parties cannot resolve a dispute by informal negotiations, then the position advanced by EPA shall be considered binding unless, within thirty (30) days after

the conclusion of the informal negotiation period, Duro invokes formal dispute resolution procedures as set forth below.

35. Formal Dispute Resolution: Duro shall invoke formal dispute resolution procedures, within the time period provided in the preceding Paragraph, by providing written notice to the United States containing a statement of position regarding the matter in dispute. The statement of position shall include, but may not be limited to, any factual data, analysis, or opinion supporting Duro's position and any supporting documentation relied upon by Duro.

36. The United States shall provide written notice containing its own statement of position to Duro within forty-five (45) days of receipt of Duro's statement of position. The United States' statement of position shall include, but may not be limited to, any factual data, analysis, or opinion supporting that position and all supporting documents relied upon by the United States. The United States' statement of position shall be binding on Duro, unless Duro files a motion for judicial review of the dispute in accordance with the following Paragraph.

37. Duro may seek judicial review of the dispute by filing with the Court and serving on the United States, in accordance with Section XII, a motion requesting judicial resolution of the dispute. The motion must be filed within ten (10) days of receipt of the United States' statement of position pursuant to the preceding Paragraph. The motion

shall contain a written statement of Duro's position on the matter in dispute, including any supporting factual data, analysis, opinion or documentation, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly implementation of the Consent Decree. Duro's motion to the Court shall not raise new issues or submit new facts that were not presented to EPA during the informal dispute resolution period.

38. The United States shall respond to Duro's motion within the time period provided in the local rules of the Court, unless the parties stipulate otherwise. Duro may file a reply memorandum, to the extent permitted by the local rules or the parties' stipulation, as applicable.

39. In any judicial proceeding pursuant to this Section's formal dispute resolution procedures, Duro shall bear the burden of demonstrating that its position clearly complies with, and furthers the objectives of, this Consent Decree, the CWA, and the CAA, and that Duro is entitled to relief under applicable law. The United States reserves the right to argue that its position is reviewable only on the administrative record and must be upheld unless arbitrary and capricious or otherwise not in accordance with law.

40. The invocation of dispute resolution procedures under this Section shall not extend, postpone, or affect any obligation of Duro under this Consent Decree not directly

in dispute. Stipulated penalties with respect to the disputed matter shall continue to accrue from the first day of noncompliance, but payment shall be stayed pending resolution of the dispute as provided in this Section. If Duro does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section VIII above.

41. Nothing shall prevent the parties from using alternative dispute resolution procedures, such as mediation, to resolve disputes arising under this Section.

42. The assessment of stipulated penalties pursuant to Paragraph 20 regarding Duro's failure to timely pay its civil penalty shall not be subject to dispute resolution under this Section. For such assessments, the United States' determination regarding the lateness of the civil penalty and any stipulated penalties assessed as a result shall be unreviewable and final.

XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS

43. This Consent Decree resolves the civil claims of the United States for the violations alleged in the Complaint filed in this action through the date of lodging of this Consent Decree. This Consent Decree does not limit any rights or remedies available to the United States for any criminal violations.

44. Except as expressly provided in this Section, this Consent Decree shall not be construed to prevent or limit the rights of the United States to obtain penalties or

injunctive relief under the CWA, the CAA, any regulations and permits issued pursuant to the CWA or CAA, or any other federal or state laws, regulations, or permits.

45. This Consent Decree is not a permit, or a modification of any permit, under any federal, state, or local laws or regulations, and in no way relieves Duro of its responsibility to comply with all applicable federal, state, and local permits, laws and regulations. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that Duro's compliance with any aspect of this Consent Decree will result in compliance with the provisions of the CWA and CAA, or with any regulations or permits issued thereunder.

46. This Consent Decree does not limit or affect the rights of Duro or of the United States against any third parties not party to this Consent Decree, nor does it limit the rights of third parties not party to this Consent Decree against Duro, except as otherwise provided by law.

47. This Consent Decree shall not be construed to create rights in, or grant any cause of action to, any third party not party to this Consent Decree.

48. Except as expressly provided in this Consent Decree, the United States reserves all legal and equitable remedies available to enforce the provisions of the Decree. The United States further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health, welfare or the environment

arising at or posed by Duro's facilities, whether related to the violations addressed in this Consent Decree or otherwise.

XII. NOTICES

49. Whenever under the terms of this Consent Decree written notice is required to be provided or written information is required to be sent to the United States, the notice or information shall be mailed to the individuals and addresses specified below, unless any such individual or such individual's successor gives notice in writing that notice should be mailed to a different individual or to a different address, or unless this Consent Decree specifically provides otherwise.

As to the United States Attorney, District of Massachusetts:

Anita Johnson
Assistant United States Attorney
U.S. Courthouse, Suite 9200
One Courthouse Way
Boston, Massachusetts 02210
Fax: (617) 748-3971

As to the Department of Justice:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Attn: Brian Donohue
Fax: (202) 616-2427

As to EPA:

Steven Viggiani
Senior Enforcement Counsel
Office of Environmental Stewardship
U. S. Environmental Protection Agency,
Region 1
One Congress Street (Mailcode SEL)
Boston, Massachusetts 02114-2023
Fax: (617) 918-1809

As to Duro:

Edward W. Ricci II
President
Duro Textiles, LLC
110 Chace Street
Fall River, Massachusetts 02724

and

Alexandra Callam
Hinckley, Allen & Snyder, LLP
1500 Fleet Center
Providence, Rhode Island 02903
Fax: (401) 277-9600

50. All notices, reports and other written submissions required by this Consent

Decree to be sent by Duro to the United States shall contain the following certification:

I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments to it, and that this document and its attachments were prepared either by me personally or under my direction or supervision in a manner designed to ensure that qualified and knowledgeable personnel properly gathered and presented the information contained therein. I further

certify, based on personal knowledge or on my inquiry of those individuals immediately responsible for obtaining the information, that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing and willful submission of a materially false statement.

51. Duro shall ensure that such certified statement is signed by a responsible corporate officer, such as a president, vice-president, secretary, treasurer, or other person responsible for a principal business function, or a senior manager responsible for environmental policy-making and decision-making.

52. Notices made pursuant to this Section shall be deemed provided upon mailing, unless otherwise provided in this Consent Decree or by mutual agreement of the Parties in writing.

XIII. COSTS

53. Each party shall bear its own costs, disbursements and attorney's fees in this action, and specifically waives any right to recover such costs, disbursements or attorney's fees from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law. However, the United States shall be entitled to collect its costs, disbursements and attorney's fees incurred in any action necessary to collect any outstanding penalties due under this Consent Decree or to otherwise enforce the Decree.

XIV. BANKRUPTCY

54. In the event that Duro commences bankruptcy or reorganization proceedings or seeks appointment of a trustee, custodian or other similar official or such proceedings are commenced against it:

- (a) It is the intent of the parties that the United States shall have an allowed claim in the amount of \$480,000, plus interest at an annual interest rate of eight percent (8%), from the effective date of this Decree, plus the costs and fees incurred by the United States through its participation in and preparation for such proceedings, less any payments of principal and interest already made to the United States; and
- (b) if any of the terms of Subparagraph (a) above are set aside for any reason, the United States, at its sole option and in its discretion, may rescind the terms of this Consent Decree and seek penalties and injunctive relief under the CWA and CAA, and any other applicable statutes and regulations, for the violations alleged in the Complaint, or in the alternative, enforce the remaining terms of this Consent Decree.

XV. MODIFICATION

55. The terms of this Consent Decree may be modified only by a subsequent written agreement signed by the Parties. Where the modification constitutes a material

change to any term of this Consent Decree, it shall be effective only upon approval by the Court.

XVI. INTEGRATION

56. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Decree and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Decree or the settlement it represents, nor shall it be used in construing the terms of this Decree.

XVII. SIGNATORIES/SERVICE

57. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind such party to this document.

58. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

59. Duro agrees to accept service of process by mail with respect to all matters arising under this Consent Decree and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this

Court including, but not limited to, service of a summons. Duro agrees that the following agent is authorized to accept the above-described service of process on Duro's behalf:

Alexandra Callam, Esq.
Hinckley, Allen & Snyder, LLP
1500 Fleet Center
Providence, Rhode Island 02903

Duro shall notify the United States as specified in Section XII above of any change in the identity or address of Duro, its agent for service, or its counsel.

XVIII. PUBLIC PARTICIPATION

60. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United States reserves the right to withdraw or withhold its consent if, upon consideration of the comments regarding the Consent Decree, the United States concludes that the Consent Decree is inappropriate, improper, or inadequate. Duro consents to entry of the Consent Decree without further notice or proceedings. Duro agrees not to oppose the entry of the Decree or to challenge any of the Decree's provisions, unless the United States has notified Duro in writing that it no longer supports entry of the Decree.

61. If, for any reason, this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party, and the terms of the agreement may not be used as evidence in any litigation between the parties.

XIX. EFFECTIVE AND TERMINATION DATES

62. This Consent Decree shall be effective upon the date of its entry by the Court.

63. Duro may provide the United States with a written request for termination of this Consent Decree after Duro has (a) maintained compliance with this Consent Decree for a period of two (2) years after the Decree's effective date; and (b) has paid the civil penalty and any stipulated penalties required by this Consent Decree. The request for termination shall state that Duro has satisfied the above requirements, and shall include any necessary supporting documentation.

64. Following receipt by the United States of Duro's request for termination, the Parties shall confer informally concerning the request and any disagreement that the Parties may have as to whether Duro has satisfactorily complied with the requirements for termination of this Consent Decree. If the United States agrees that the Consent Decree may be terminated, the parties shall submit, for the Court's approval, a joint stipulation terminating the Consent Decree.

65. If the United States does not agree that the Consent Decree may be terminated, Duro may invoke dispute resolution under Section X above. However, Duro shall not seek such dispute resolution until sixty (60) days after service of its request for termination.

XX. RETENTION OF JURISDICTION

66. Until this Consent Decree is terminated, the Court shall retain jurisdiction over the Parties and the Decree in order to enforce its terms and to take any other action necessary or appropriate to effectuate it. Duro shall not challenge, on statute of limitations or on any other grounds, the Court's jurisdiction to enforce or otherwise effectuate this Consent Decree.

XXI. FINAL JUDGMENT

67. Entry of this Consent Decree constitutes a final judgment under Rule 54 of the Federal Rules of Civil Procedure.

Judgment is hereby entered in accordance with the foregoing Consent Decree this

_____ day of _____ 200__.

UNITED STATES DISTRICT JUDGE

UNITED STATES V. DURO TEXTILES LLC CONSENT DECREE

For Plaintiff, UNITED STATES OF AMERICA:

MICHAEL J. SULLIVAN
United States Attorney
District of Massachusetts

By:

Anita Johnson
Assistant United States Attorney
District of Massachusetts
U.S. Courthouse, Suite 9200
One Courthouse Way
Boston, Massachusetts 02210

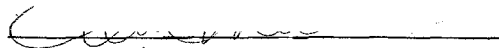
Date

UNITED STATES V. DURO TEXTILES LLC CONSENT DECREE

For Plaintiff, UNITED STATES OF AMERICA:

SUE ELLEN WOOLDRIDGE
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

By:


Ellen Mahan
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611

1/18/07
Date

UNITED STATES V. DURO TEXTILES LLC CONSENT DECREE

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Stephen S. Perkins
Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency,
Region I
One Congress Street (Mailcode SAA)
Boston, Massachusetts 02114-2023

DEC 18, 2006

Date

Steven J. Wiggiani
Senior Enforcement Counsel
Office of Environmental Stewardship
U.S. Environmental Protection Agency,
Region I
One Congress Street (Mailcode SEL)
Boston, Massachusetts 02114-2023

12/18/06

Date

UNITED STATES V. DURO TEXTILES LLC CONSENT DECREE

FOR Defendant, DURO TEXTILES LLC:

EDWARD W. RICCI II

President

Duro Textiles, LLC

110 Chace Street

Fall River, Massachusetts 027244

12/10/06

Date